APPENDIX

APPENDIX A

RULES OF THE COURT OF APPEALS OF KENTUCKY

3.250 Challenge to Qualifications of Trial Committee.

Any time, not later than ten days before the date set for hearing the respondent may, by motion, challenge for cause any member of the Trial Committee. If the challenge is such as might disqualify a circuit judge, the Chairman of the House shall relieve the challenged member and immediately fill the vacancy.

3.260 Joinder and Consolidation.

(a) Any number of acts or omissions, and any number of separate and distinct transactions, alleged to constitute unprofessional conduct on the part of an attorney may be alleged in a single charge in separate counts. Separate charges may, by order of the Tribunal be consolidated and tried as a single disciplinary case.

(b) A charge may be filed against two or more attorneys if based on the same or related state of facts and separate charges against two or more attorneys based upon the same or related state of facts may, by order of the Tribunal, be consolidated and tried as a single disciplinary proceeding. Where two or more attorneys are proceeded against in the same proceeding the Trial Committee shall make a separate report to the Board as to each.

3.300 Rights of Respondent Against Whom a Charge has been Filed.

The respondent against whom a charge has been filed shall have the right to be represented by counsel

and entitled to a hearing before a Trial Committee. He shall have all the rights secured to a party by the Rules of Civil Procedure with respect to the introduction of evidence, the right to compel the attendance of witnesses; and the production of books, papers and documents or other writings except those contained in the investigative file of the association. He shall have the right to an oral argument or to file a brief before the Trial Committee. He shall be afforded a full opportunity to remain silent, to defend himeslf by the introduction of evidence and to cross-examine witnesses called against him. If the respondent be unable to employ counsel, the Chairman, upon written request in affidavit form, made within twenty days after service of the charges, shall appoint counsel for the respondent.

3.350 Transcript of Evidence.

The proceedings before the Trial Committee shall be reported by a reporter appointed by the Trial Committee. However, after hearing, if the Trial Committee is of the unanimous opinion that the respondent should only be administered a private reprimand or that all charges should be dismissed the Trial Committee may, with the consent of the parties, direct the reporter to preserve all notes of the hearing but defer a transcription of the record until ordered by the Board to prepare such transcript. In all other proceedings the testimony shall be transcribed.

3.370 Board's Action on Trial Committee's Report.

Upon receipt of the report of the Trial Committee the Board shall promptly consider and act upon the entire record. Only the President, the President-Elect, the Vice President and the fourteen duly elected mem-

brs of the Board from their respective appellate districts shall be eligible to be present, participate in, and vote on any disciplinary case. Any member who has participated in any phase of a disciplinary case submitted to the Board under this Rule, or has been challenged on grounds sufficient to disqualify a circuit judge, shall be disqualified and the Chief Justice shall appoint a member to consider and act on the case.

The Board shall decide, by a roll call vote, whether the respondent is guilty or not guilty. If the respondent be found not guilty, the Board's action is final. If the respondent be found guilty, the Board shall then decide by a second roll call vote, the disciplinary action to be recommended. Both the finding of guilty and the disciplinary action to be recommended must be agreed upon by a majority of the members of the Board entitled to vote in the proceedings. The result of each of the two votes shall be recorded in the Board's minutes. The President shall sign and file with the Director an order setting forth the Board's action, and the Director shall mail copies of such order together with a copy of the Trial Committee's report to the parties or their counsel and to each member of the Tribunal. If discipline is recommended the entire record, together with a certified bill for costs and expense incurred in the investigation preliminary to, and in the conduct of, the proceedings shall be filed with the Clerk. Any recommendation to the Court that disciplinary action be taken shall be advisory.

3.450 Recovery of Costs.

(a) Every final order of the Board or the Court which adjudges the respondent guilty of unprofessional conduct shall provide for the recovery of all costs, including those certified under RCA 3.370. Immedi-

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ately upon the effective date of the order the Clerk shall furnish a cost bill to the respondent, and if the bill is not satisfied within ten days thereafter, the Clerk shall issue one or more executions thereon, directed to the sheriffs of the counties in which the respondent and the sureties on his bond reside. So much of the costs collected by the Clerk as represent those incurred by the Board shall be promptly refunded to the Association.

(b) Upon a final order of the dismissal of a complaint, cost may be assessed against the complainant if the Board feels the complaint groundless or made maliciously.

APPENDIX B

ORDER OF CHIEF JUSTICE DATED JUNE 26, 1973

COURT OF APPEALS OF KENTUCKY

KENTUCKY BAR ASSOCIATION - - - *Complainant*

V. DESIGNATION OF CHAIRMAN OF TRIAL COMMITTEE

RICHARD J. GETTY - - - - - - - *Respondent*

Pursuant to RCA 3.230, Hon. Robert E. Wohlwender, of Covington, Kentucky, is hereby designated and commissioned as Chairman of the Trial Committee heretofore appointed by the Chairman of the House of Delegates to try the issues in this proceeding.

This 26th day of June, 1973.

JOHN S. PALMORE
Chief Justice